

**TOWN OF FOUNTAIN HILLS
MINUTES OF THE REGULAR SESSION OF THE
FOUNTAIN HILLS TOWN COUNCIL
July 2, 2009**

*** CALL TO ORDER AND PLEDGE OF ALLEGIANCE**

Mayor Schlum called the Executive Session to order at 6:30 p.m.

ROLL CALL – Present for roll call were the following members of the Fountain Hills Town Council: Mayor Schlum, Councilmember Contino, Councilmember Leger*, Councilmember Brown, Councilmember Hansen, and Councilmember Dickey. Deputy Town Manager Julie Ghetty, Town Attorney Andrew McGuire and Town Clerk Bev Bender were also present.

*Councilmember Leger participated in the meeting through the use of teleconferencing equipment. Vice Mayor Archambault was not present at the meeting.

*** INVOCATION** – Councilmember Hansen

*** MAYOR'S REPORT**

(i) Update on the Valley Metro Total Transit Service

Mayor Schlum provided a brief report on the status of the Valley Metro Total Transit Service and noted that the Intergovernmental Agreement (IGA) between the Town and Valley Metro for Special Transportation Services (STS) had been removed from this evening's agenda. He advised that the Valley Metro Board would not hold their next meeting until September 2009 and they would approve the IGA at that time. He explained that this did not mean that the anticipated start-up date had changed (yesterday) and said that the Town had been working with Valley Metro in developing a Memorandum of Understanding (MOU) to include services from July 1st through September 30, 2009. The costs incurred for July through September services would be under the \$20,000 amount so it would not have to come before Council on an MOU. He stated that they wanted to make everyone aware of the change for tonight's meeting and he announced that the service would be continuing.

SCHEDULED PUBLIC APPEARANCES/PRESENTATIONS

(i) DEPARTMENT DIVISION INFORMATION OVERVIEW OF SERVICES PROVIDED - TOWN CLERK BEV BENDER.

Town Clerk Bevelyn Bender addressed the Council relative to this agenda item and highlighted a brief PowerPoint presentation relative to the services provided by the Town Clerk's Office. Ms. Bender advised that the Division's Mission Statement was "To uphold Constitutional government and the laws of Fountain Hills. To record that which was true and preserve what had been entrusted. To serve both internal and external customers in an impartial, confidential, efficient, and trustworthy manner."

Ms. Bender provided history relative to the role of Municipal Clerks (oldest public servant in local government along with the tax collector) and noted that Clerks were one of only a handful of municipal officials designated by statute. She discussed the areas of responsibility (Administration, Legislation, Records and Elections). Ms. Bender thanked the Council for providing her an opportunity to share what she did for the Town of Fountain Hills and indicated her willingness to respond to questions from the Council. Mayor Schlum thanked Ms. Bender for her presentation.

ii) UPDATE RELATING TO THE DEVELOPMENT OF THE SWABACK DOWNTOWN MASTER PLAN BY MARK MCDERMOTT REPRESENTING THE FOUNTAIN HILLS' CHAMBER OF COMMERCE. (MR. FRANK FERRARA FILLED IN FOR MR. MCDERMOTT.).

Frank Ferrara, Chief Executive Officer of the Fountain Hills Chamber of Commerce, addressed the Council and provided a brief overview relative to the development of the Swaback Downtown Master Plan. He explained that Mark McDermott, the Chamber's Director of the Business Vitality Action Group, was unable to attend this evening's meeting so he would be making the presentation. He noted that the Downtown Visioning Master Plan project was being facilitated by the Swaback Partners and was a collaboration between the Chamber of Commerce and the Town of Fountain Hills. He reported that there were five phases associated with this particular project and said that two of the phases had been completed. He added that their second public input process took place last Tuesday and it was the first of the processes that was actually taped and was available on the Town's website. He said that he hoped to have a link on the Chamber's website in the very near future. He explained that Phase I consisted of the Swaback Partners conducting an Analysis and Reconnaissance and advised that they took all of the previous studies that had been done and reviewed that information, questioned people who were just walking in the streets and looked at the downtown area. As a result they received some input regarding issues that they believe should be looked into. He added that based on all of that information they came up with a plan called the Analysis and Reconnaissance.

Mr. Ferrara noted that a public input session also took place in April at the Community Center and a presentation was made relative to all the Analysis and Reconnaissance data put together by Swaback Partners. He said that a series of drawings were presented and stated the opinion that the drawings gave the attendees an idea of what the downtown area really looks like. He reported that the public input session was attended by approximately 100 citizens and great input was received. Swaback then included all of the input received from that session in Phase II which was presented to the project team (leadership of the Town), the Focus Group.

Mr. Ferrara discussed the positive feedback that was received; Phases III, IV and V and the fact that the next Phase would talk about everything that had been gathered in Phase II plus anything else that might come up; and the fact that the entire project would be completed with another series of meetings in either late August or early September; and the importance of having the citizens involved in the process. Mr. Ferrara indicated his willingness to respond to questions from the public.

Councilmember Contino stated that the Chamber had done a great job and he likes Swaback Partners because they did not push anything on them; it was up to the Council to accept what they have.

Mr. Ferrara advised that Mr. Vern Swaback's mantra was "If it did not work for the residents it's not going to work for anybody." He said that they were keeping these important words in mind as they move forward.

Councilmember Dickey apologized for the fact that she had been working on the State budget and had been unable to attend the June 30th meeting.

Mr. Ferrara encouraged anyone who wanted to talk to him directly about the project to contact him at 837-1654 Ext. 229 (his direct line).

Mayor Schlum reiterated that the Chamber's #1 PowerPoint presentation was available on the Chamber's website (Home Page) and was clearly marked "April 30th." He added that #2 (video) was currently available on the Town's website and a link to that would soon be available on the Chamber's website. He added that #3, #4 and #5 would be provided as soon as they were available.

Mayor Schlum thanked Mr. Ferrara and everyone else involved in the project.

The Mayor requested that Nick Everetts come forward and asked him to tell everyone about the honor he had recently received.

Nick Everetts addressed the Council and stated that he was a junior at Fountain Hills High School and had been recently honored by Congressman Harry Mitchell for presenting a speech on the Constitution for the American Legion in April of this year. He added that he had placed second in the State and won the Regionals that were held between Flagstaff, Fountain Hills and one other community. He noted that he received \$300 for winning the Regionals and \$800 for coming in second in the State competition. He said that he lost to a young man who went on to the Nationals and did well in that competition. He informed the Council that he would participate again next year and had already started to practice with the assistance of a Coach and hopefully, next year, he would make it to the Nationals.

Mayor Schlum and the members of the Council congratulated Nick on his excellent accomplishment and noted that Nick was a member of the Mayor's Youth Council.

CALL TO THE PUBLIC

None.

CONSENT AGENDA

AGENDA ITEM #1 – CONSIDERATION OF APPROVING THE TOWN COUNCIL MEETING MINUTES FROM JUNE 9 AND JUNE 18, 2009.

AGENDA ITEM #2 – CONSIDERATION OF APPROVING THE AMENDED PROFESSIONAL SERVICES AGREEMENT WITH HUNT & CARAWAY ARCHITECTS TO INCLUDE AN ADDITIONAL PAYMENT, NOT TO EXCEED \$60,010, TO COMPLY WITH THE SUSTAINABILITY REQUIREMENTS IN THE APPLICATION FOR THE FEMA ASSISTANCE TO FIREFIGHTER FIRE STATION CONSTRUCTION GRANTS, FOR THE DESIGN OF THE POSSIBLE NEW FIRE STATION.

AGENDA ITEM #3 – CONSIDERATION OF ORDINANCE 09-08, AMENDING THE FOUNTAIN HILLS TOWN CODE, CHAPTERS 6, 8, 13, 16 AND 18, RELATING TO THE IMPOSITION OF FEES AND CHARGES.

AGENDA ITEM #4 - CONSIDERATION OF APPROVING A LIQUOR LICENSE APPLICATION SUBMITTED BY WILLIAM LEO NELSON (EL CANTO DEL FUENTE), LOCATED AT 11044 N. SAGUARO BOULEVARD, FOUNTAIN HILLS, AZ. THIS IS FOR A SERIES 12 LICENSE (RESTAURANT).

Councilmember Brown **MOVED** to approve the Consent Agenda as listed and Councilmember Contino **SECONDED** the motion. A roll call vote was taken with the following results:

Councilmember Contino	Aye
Councilmember Hansen	Aye
Councilmember Leger	Aye
Councilmember Dickey	Aye
Mayor Schlum	Aye
Councilmember Brown	Aye
Vice Mayor Archambault	Absent

The motion **CARRIED UNANIMOUSLY** by those present (6-0).

REGULAR AGENDA

AGENDA ITEM #5 - PUBLIC HEARING TO RECEIVE COMMENTS RELATING TO THE RESTRUCTURING OF DEVELOPMENT FEES CHARGED BY THE TOWN OF FOUNTAIN HILLS.

Mayor Schlum declared the public hearing open at 6:50 p.m.

Deputy Town Manager Julie Ghetti welcomed Pat Walker with Red Oak Consulting, and said that Ms. Walker would highlight a brief presentation relative to the restructuring of development fees charged by the Town. She noted that the process of reviewing the Town's impact fees began about a year ago and that this was an opportunity for the public and the Council to provide input. She advised that the goal was to have the proposed fees adopted at the next meeting that would take place in August and added that if approved, the fees would become effective in November 2009.

Ms. Walker stated that a lengthy presentation on this issue took place in April and this evening she would highlight a brief PowerPoint presentation and then respond to any questions from the Council.

Ms. Walker discussed the non-utility fees updated in the Study; the recommended fee summary; development fee comparisons; the proposed schedule for adoption; A.R.S. requirements (A municipality shall give at least 60 days advance notice of intention to assess a new or modified development fee and shall release to the public a written report that identifies the methodology for calculating the amount of the development fee and the infrastructure improvement plan); existing non-utility development fees updated - Residential and Residential and Non-Residential; existing and recommended fees - single family residential per dwelling unit; existing and recommended fees - multi-family residential per dwelling unit; existing and recommended fees - commercial per square foot; existing and recommended fees - industrial per square foot; results of a survey of non-utility development fees and the fact that staff contacted Queen Creek and advised that the Town updates the fees on an annual basis and would continue to do that, Mesa had a study underway that would change the fees, Carefree was going to be updating their fees in 2010 and the other communities said that they just finished updating them so at this point in time they might do some indexing but not a full study; the next steps, i.e. fee and IIP adoption on August 6, 2009, and effective date of the fees November 1, 2009; and a summary as well as recommendations:

- * Consider proposed fees for adoption
- * Increase fees annually based on 20 City Engineering News Record Construction Cost Index
- * Evaluate capital plans on an annual basis
- * If there were major changes in community development statistics or economic trends adjust fees accordingly

Ms. Walker thanked the Council for the opportunity to address them and said that she would be happy to respond to any questions.

Mayor Schlum thanked Ms. Walker for her presentation.

Councilmember Dickey commented on all of the discussions that had been taking place on the State level and said that right now everything was off the table and questioned who was keeping an eye on this (the League?) because if they get a date she wondered what that was going to do as far as a moratorium, a freezing, etc.

Town Attorney Andrew McGuire advised that there were three different things they were really concerned about; one was a statute change that reluctantly cities and towns were willing to accept as the only thing that was really going to happen. He said that the bill was moving forward through the process until everything came to a screeching halt months ago and it was not adopted and was effectively dead for the moment. He added that the second part of that was a moratorium on fee increases, which would have affected the Town directly because the effective date was going to be July 1st. He noted that the third was part of the budget that was adopted but it was vetoed by the Governor. He said that the third part of it was a moratorium on all fees collected, which did not make it into anything thankfully and was not adopted. He reported that that would have caused them to not

collect the fees that were adopted as of today. He informed the Council that the Special Session that had been called was for the purpose of fixing the budget and these items, while they were living in the budget they were not budgetary items (did not belong there in the first place), so there was going to be significant resistance on the part of cities and towns relative to allowing that discussion to happen during the Special Budget Session. He reported that barring them being resurrected during that Special Session they were in effect done for this year unless another Special Session was called and hastily run through. He advised that the effective date on the step up procedure, which was contemplated by the initial House Bill, was to be after the first of next year and there would be a period of time after an approval for which a newly adopted fee could not be applied. He noted that it was not really a moratorium; it was more of a "grandfathering" provision that allowed for a grace period for someone to know with certainty what the fees were without the fear of any kind of increase.

Councilmember Contino requested additional clarification relative to the figures relating to law enforcement (under single dwellings and family dwellings). He noted that they had dropped from 472 to 112.

Ms. Walker stated that the methodology that was used was based on the number of projects included and the completion of projects when they were updated. Therefore, the fee would change depending upon what was put into the fee and what had been completed. She confirmed that the level of service would not go down as a result of the decreased fee. She added that whenever a fee went down it meant that there were not as many expenses to be met.

In response to a question from the Mayor, Ms. Walker explained that the methodology used was the hybrid format and the only reason the fee would decrease was because of projects being completed that should not be included in the fee calculation. She said that prior to adoption she would send to the Council a list showing what the projects were last time in the fee study and what they were now.

The Mayor also discussed the streets and said that since that made up more than 70% of the increase on each and every one of the applications he would like to know if they would be impacted, if in fact, they were financing street improvements or street construction through a means that they were going to consider this evening, one of which was a bond. He asked if a bond were passed, whether that would reduce the development fees or just be a netting of fees back to the Town from a developer who was causing the impact.

Ms. Walker replied that it depended upon the type of bonds used. She added that usually if it was a growth related project and was paid by bonds, they would have to give a credit against the impact fee calculation.

Ms. Ghetti advised that the proposal that they would consider later this evening was for Saguaro Boulevard, a mill and overlay, which was a maintenance project and not related to growth. She said that if the bonds were approved, it would not affect the calculation of the development fees because with those projects the development fees paid for only projects related to growth.

Mayor Schlum asked why the change was so significant in the streets area and Ms. Walker stated that it was the result of the Traffic Study that was conducted and the number of lane miles that were going to have to be done to accommodate growth (and the portion directly impacted by growth).

Mayor Schlum asked if it was not uncommon to have single family residential fees and also the commercial fees be recommended at nearly double what they were today. Ms. Walker responded that if that was what it costs to maintain the Town's service level, then no. She added that perhaps it meant they were understated before and the Town did not have the funds to build the streets. She said that it was not unusual for people to do a traffic study or a water/sewer master plan study and come back and say "now they really knew what the true costs were for the future" so therefore the fees need to go up. She advised that otherwise the level of service would not be maintained.

Mayor Schlum asked Ms. Walker to reiterate the purpose of development fees and she explained that they were to provide the funds for new growth in capital facilities and infrastructure so that they did not place the burden

on existing residents as a result of growth. She added that if they did not grow at all they would not need to build more and they would not have a need for impact fees - they would have maintenance items and replacements but they would not have the need for impact fees.

In response to a question from the Mayor Ms. Walker assured the Council she had done a lot of work in this area for other municipalities in this State and across the country. She explained that they had to have impact fees (a calculation of impact fees) that they could defend in court. She said that not only did they to follow the State statute of every state they worked with, which differed from state to state; they also had to have a methodology that they could defend. She reported that her company had never lost a defense in this area.

Councilmember Hansen discussed streets and asked if the significant increase was primarily based on the traffic study, like Fountain Hills Boulevard as the main street going into the former State land. She questioned what areas they were looking at.

Mayor Schlum said that that was where he was going with his question and asked if there were different costs associated.

Ms. Walker responded to this question and stated that she had before her the list that was included in the study and noted that there were approximately six pages of projects that were going to be going forward. She explained that they look at the portion of each and every project on a percentage of growth and non-growth and then they use their calculation based on vehicle miles traveled, vehicle trips in. She stated that when they look at some of the projects there was everything from traffic signals to some of the larger ones like the Fountain Hills Boulevard sidewalk, Shea Boulevard bike lane, etc. She reported that in total they were looking at approximately \$31.3 million for 2009 through 2028 in street projects.

The Mayor pointed out that some of those projects might be more maintenance projects and perhaps should not be included (such as Saguaro Boulevard).

Ms. Walker said that there were different ones included and the Saguaro Boulevard project (service road elimination) was non-growth related. She added that if you look at Saguaro/Monterey right-turn improvements, that would be considered growth. She noted that if they look at the total amount of street capital, it was about \$115 million to build out and out of that \$115 million, \$84.2 was non-growth and \$31.2 was growth related.

Councilmember Dickey commented on the fact that what was also being reflected was whether the figures were too low before.

Councilmember Hansen asked whether this would all be linked to the report that they received from Stantec.

Public Works Director Tom Ward replied that he was not involved in that study but he would imagine that it was used as a tool to look at where they were. He said that they saw the maintenance reports and numbers of up to \$13 million for different things. He added that in the 25 year CIP they had different miscellaneous projects that would be related to growth and streets.

Mayor Schlum said that he was going to take another look at the study due to the bigger increase and better familiarize himself with that. He added that they wanted new development to pay for itself but he was not sure what impact they wanted to have. He noted that commercial development was important to Fountain Hills and their economic development base was important as well. He said that he wanted to be sure that they were not costing themselves out of a market if their goal was to grow in that area and develop a good economic base.

Mayor Schlum asked if there were any citizens wishing to speak on this item and Ms. Bender advised that she had received one request.

Ed Kehe addressed the Council and said that he was present to urge the Council on August 2nd to approve in full the recommendations of the consultant on the adjustment of the development fees. He stated that

development, particularly residential development, never paid for itself and development increased demands for Town services and Town capital expenses. He added that the rationale behind development fees was to help the community pay for the expenses necessary as a result of development. He commented that there would always be those who would come before the Council and say that if they increase the development fees they were going to harm the construction industry. He said that he was sure that the construction industry wanted to pay its fair share and it was a question of determining what the fair share was. He stated the opinion that they had before them this evening, with the increase, what would be a fair share. He added that he did not accept the argument that it was going to economically impact the building industry and thus the Town. He said that they had a public statement from the Ellman Company that the homes were going to be built on the State Trust Land and would range from \$675,000 to \$1.5 million and stated that in some cases already in Eagles Nest and, looking to the future in Adero Canyon, the land alone exceeded those numbers. He commented that a person who was willing to pay that kind of money for a home in Town was not going to hesitate at all if they increased the development fees \$4,900 hundred dollars. He urged the Council to look positively upon this.

Councilmember Contino said he wanted to go back to the law enforcement issue because they talked about this before and he had suggested that they bring in another squad because with all of the activities going on with growth; they just did not have enough service to get to everyone they wanted to get to. He stated that he was still concerned with the low figure they were talking about. He stressed the importance of not allowing services to decrease and added if they were going to have more people and more things happen than they currently do, they need enough deputies to take care of all the calls they receive.

Ms. Walker pointed out that impact fees could not be used for operation maintenance costs and said that the only thing they could use impact fees for was capital facilities, infrastructure, equipment, etc. She said that the addition of police personnel would have to be accomplished through the budgetary process with General Fund dollars. Councilmember Contino replied that he understood that but he would like to know why it was sitting in there if it did not affect them.

Mayor Schlum commented on the fact that there were some capital growth projects that were associated with law enforcement projects that were calculated in there. He said that it was his understanding that they were the calculations that went into non-operational expenditures -- any item that could be calculated in and applied towards growth that impact law enforcement. He added that those types of items were calculated into the fee and then spread out over the number of anticipated homes.

Ms. Walker confirmed the Mayor's response and added that the two projects that were included consist of a police facility construction expansion and police facility vehicles and equipment. She noted that they were pretty far out (in 2020-21/37.8% was growth related).

Mayor Schlum noted that the contract fee with MCSO included the cost necessary to recapture most of their capital items, vehicles etc. Councilmember Contino expressed the opinion that the figures would increase next year. Mayor Schlum stated that the fees were recalculated every two years and indexed once a year.

Ms. Ghetti advised that the statutes allow the Town to index the impact fees on an annual basis without having to go through the process of creating a Capital Improvement Plan or and IIP. She added that the Town ordinance on the development fees required that they be reviewed every five years.

Mayor Schlum said that if there were some items that Councilmember Contino believed needed to be calculated he should let staff know.

There were no additional requests to speak from the public and the Mayor thanked everyone for their input.

The Mayor declared public hearing closed at 7:15 p.m.

AGENDA ITEM #6 – PUBLIC HEARING TO RECEIVE COMMENTS ON SPECIAL USE PERMIT FOR AN EXPANDED OPEN SEATING AREA IN THE C-C ZONING DISTRICT, AKA THE EL

ENCANTO, LOCATED AT 11044 N. SAGUARO BOULEVARD, PLAT 202, BLOCK 2, LOT 6A. CASE #SU2009-04.

Mayor Schlum declared the public hearing open at 7:15 p.m.

Planner Gene Slechta addressed the Council relative to this agenda item and said that this item was to receive comments on and consider a request to expand the open outdoor seating area for a new restaurant. He noted that the property was the site where other restaurants had existed in the past -- most recently Phil's Filling Station -- and the current building permit work that had been going on for some time had been to create another restaurant, The Two-Step Cafe, which would not be opening. He highlighted a brief PowerPoint presentation. He stated that the new restaurant would be a Mexican restaurant named El Encanto and was modeled after two existing El Encanto Mexican restaurants in the Valley. He added that outdoor seating areas in commercial zoned properties required Special Use Permits and that change to existing outdoor seating areas also required new Special Use Permits. He advised that the site was zoned Common Commercial (C-C) and adjacent lots were also C-C and in front of the site was shared parking and there was also parking across the street.

Mr. Slechta discussed additional surrounding properties and noted that the planned expansion was to the left of the property as you looked at the existing entrance. He referred to site plans depicting the existing layout of the restaurant and the current outdoor seating areas and noted that there were two outdoor areas, one slightly left of the restaurant and a second, which was a porch area (as well as the existing outdoor area). He referred to a slide that showed the four elevations of the site and said that the front was distinguished with multiple arches accented with stone and the side had an arch as well in addition to multiple full arches. He added that the rear portion facing the residential area would have a high wall without customer access except for an emergency exit. He also referred to the proposed floor plan that includes a pond, a bridge and a ramada inside the expanded outdoor seating area. He pointed out that the existing outdoor seating area was gone from the proposed plan and that area would be a bar inside of the restaurant.

Mr. Slechta advised that staff's opinion was that this request met all of the requirements contained in the Town's Zoning Ordinance and recommended approval of the request subject to the stipulations outlined in the Staff Report. He added that the Planning and Zoning Commission forwarded a recommendation on June 11th to the Council to approve the request for a Special Use Permit with stipulations. He said that the suggested motion was that they move that the Town Council approve the Special Use Permit for an expanded open seating area in C-C Zoning District located at 11044 N. Saguaro Boulevard, Plat 202, Block 2, Lot 6A, subject to the stipulations as outlined in the Staff Report, Case #SU2009-04. He indicated his willingness to respond to questions and said that the applicant was also present to answer any questions.

Councilmember Hansen stated that the document provided by the architect referred to the expansion area and a partial second floor dining area and said that she did not see that on the plan. Mr. Slechta replied that the first submittal provided included a partial second floor and the applicant had decided to remove the second floor level.

Mayor Schlum commented that many of them had heard a lot about El Encanto and were excited about having them come into the community. He stated that they were known for some great Mexican food in Town and this would be another great place to enjoy it. He added that this represented a significant improvement in that area and said it looked like they were almost doubling the space that was used by the previous restaurant. He also noted the unique design on the outside dining area. He said that he was pleased to see the wall in the back because that was the one area he was sensitive to because of the residences across the wash. There were no citizens wishing to speak on this agenda item. Mayor Schlum thanked Mr. Slechta for his presentation.

The Mayor declared the public hearing closed at 7:19 p.m.

AGENDA ITEM #7 – CONSIDERATION REGARDING A SPECIAL USE PERMIT FOR AN EXPANDED OPEN SEATING AREA IN THE C-C ZONING DISTRICT, AKA THE EL ENCANTO.

LOCATED AT 11044 N. SAGUARO BOULEVARD, PLAT 202, BLOCK 2, LOT 6A. CASE #SU2009-04.

Councilmember Hansen **MOVED** to approve the Special Use Permit for an expanded open seating area in the C-C Zoning District located at 11044 N. Saguaro Boulevard, Plat 202, Block 2, Lot 6A, subject to the stipulations outlined in the Staff Report, Case #SU2009-04 and Councilmember Contino **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those present (6-0).

Mr. Slechta stated that the opening should take place sometime next month.

AGENDA TEM #8 – CONSIDERATION OF THE CONCEPT PLAN FOR THE "FOUNTAIN HILLS FIRE STATION #2," (AKA FIRE STATION #2 REPLACEMENT) LOCATED AT 15200 E. SHEA BOULEVARD, WITHIN THE SHEA BOULEVARD RIGHT-OF-WAY. CASE #CP2009-02.

Senior Planner Bob Rodgers addressed the Council relative to this agenda item and explained that this was a joint application by Rural Metro and the Town. He noted that the building would be entirely within the Shea Boulevard right-of-way, just east of Palisades Boulevard. He referred to the proposed site plan and reported that the building would have a 6,735 square foot building footprint on 2.5 acres. He added that the building itself would consist of 5,974 square feet under roof with 762 square feet of patio area. He noted that there would be parking for ten vehicles (one handicapped space) and an additional two motorcycle spaces as well as a bicycle rack somewhere near the main entrance area. He said that the trash enclosure would be located in the northwest corner of the parking area for easy, yet out of the way access by trash trucks.

Discussion ensued relative to the fact that there would be a number of retaining walls on the site and a sidewalk on Shea Boulevard that would connect to the front entrance area; as part of the improvements there would be a median cut in Shea Boulevard and there would be two deceleration lanes for safe turning and to allow the trucks to go in and out; the site elevations and the fact that the property would be fully landscaped and re-vegetated with low water plants after it was developed; and the building was being designed to LEED Silver Certification standards for energy efficiency.

Mr. Rodgers advised that staff recommended approval of the concept plan subject to the stipulations outlined in the Staff Report and indicated his willingness to respond to questions from the Council. He noted that representatives from Rural Metro were also present. Mayor Schlum thanked Mr. Rodgers for his presentation.

There were no citizens wishing to speak on this agenda item.

Mayor Schlum said that he and some other members were out at the site today and talked with the Chief. He stated that the elevations certainly depicted a residential style and looking at the west elevation it really looked like a house with two RV garages. He added the opinion that the style would fit in well in the area if they could obtain the funding. He asked why the Council was seeing a concept plan and said he believed it was because they wanted to be in the best position possible for the funding request.

Mr. Rodgers agreed that that was one of the main considerations and noted that there was a deadline for the grant application. He said that there was no Planning & Zoning Commission (P&Z) meeting scheduled. He added that it was also coming before Council because the P&Z could not authorize the use of Town land or Town funds and said that the Council was prepared to deal with this issue because they had been talking about the funding mechanisms over the last few months.

Councilmember Hansen stated the opinion that the elevations looked nice from all directions and said that she had a little concern about the north elevation (a lot more boxy without slanted overhangs) and asked if anything could be done about the top piece on the roof that was so flat and square. She questioned whether it could be adjusted to mirror the other elevations. She noted that this was what the Resort and Northridge would be looking at.

The architect for the project addressed the Council and said that it would be fairly easy to incorporate some sloped roof area on the north elevation to mimic some of the other elevations. Mayor Schlum stated that he was looking at the south elevation and the area that had the angled roof area was the place he believed Councilmember Hansen was saying she would like to see more of an angle.

Councilmember Hansen added that the windows on that side were pretty small and could be larger. She said that those changes might soften the mass a little bit before the trees grow in. The architect agreed to illustrate a change in the future.

Mr. Rodgers explained that one of the reasons why the windows were so small on that side was because there was some concern from Westridge that they would see the lights shining through those windows at night across the large area. He said that some shading might be necessary if the windows were made bigger.

Mayor Schlum thanked Mr. Rodgers for taking all of these issues into consideration.

Councilmember Dickey **MOVED** to approve the Concept Site Plan for Fountain Hills Fire Station #2 subject to the stipulations outlined in the Staff Report and Councilmember Contino **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those present (6-0).

AGENDA ITEM #9 – CONSIDERATION OF RESOLUTION 2009-24, ORDERING AND CALLING A SPECIAL ELECTION TO BE HELD IN AND FOR THE TOWN OF FOUNTAIN HILLS ARIZONA, ON NOVEMBER 3, 2009, TO SUBMIT TO THE QUALIFIED ELECTORS THEREOF THE QUESTION OF AUTHORIZING THE ISSUANCE AND SALE OF FOUR MILLION FIVE HUNDRED THOUSAND DOLLARS (\$4,500,000) PRINCIPAL AMOUNT OF GENERAL OBLIGATION AND/OR STREET AND HIGHWAY USER REVENUE BONDS, PROJECT OF 2009; AND DECLARING AN EMERGENCY.

Deputy Town Manager Julie Ghetti advised that at the last Council meeting staff presented an option to pay for Saguaro Boulevard through General Obligation Bonds or Highway User Revenue (HURF) Bonds or any combination. She said that the proposed resolution this evening was to authorize the Council to put to the electorate if they want to approve those bonds.

Mayor Schlum stated that staff was asked to bring back two options - \$4.5 million in General Obligation Bonds, mixing General Obligation and HURF for the Council to decide which to move forward with. Councilmember Hansen commented on the fact that the proposed ballot language was very broad and pointed out that Saguaro Boulevard was not mentioned in the language and she wondered whether it could be specifically mentioned since that was what all of the discussion had been about.

Town Attorney Andrew McGuire advised that staff could certainly tailor the ballot language to specifically mention Saguaro Boulevard. He stated the opinion that the ballot language was usually kept more flexible just in case the project budget was somehow miraculously less than what the amount authorized was or the amount issued was so that that money could then be used (whatever small portion) to complete other projects as necessary. He added that the main bulk of this was for Saguaro Boulevard and reiterated that staff could certainly revise the language. He noted that if the language was specific to Saguaro Boulevard, it would be spent on Saguaro Boulevard and they would have to figure out what to do with any savings.

Councilmember Dickey asked what the approximate amount would be (based on a \$350,000 home and \$31.00 a year).

Ms. Ghetti responded that that was an estimate and she could not imagine it varying more than \$5.00 to \$10.00. She pointed out that it was based on the interest rate of the bonds and was an estimate of what the annual payment would be. She added that they paid an annual payment of approximately \$400,000 and based on the assessed valuation of the community it was about \$31 - \$35 per year.

Councilmember Dickey said that as she had indicated before she supports putting this before the voters. She commented on the fact that they were down to the two options and she was comfortable with either one but she was very comfortable with going ahead with the \$4.5M. She added that a lot of the Town's roads had maintenance issues and she would rather keep the HURF money as they had it so they could use it for other needs should they arise. She said that if something happened and they have not used all the money, if there was a mechanism for not collecting, then that was something that they would all be in favor of (or at least she would be in favor of that). She stressed the importance of proceeding and taking on the responsibility of fixing those roads and this was the logical way to maintain the roads. She expressed that she cared about safety, the way the roads looked, and that the Town had done their best with patching the roads.

Councilmember Hansen advised that a lot of things had changed just since the last meeting (the Cap and Trade vote, the sales tax increase possibility, the School bond over-ride going on the November ballot and the continued downward spiraling of other economic conditions that Mr. Deppe outlined so well in his letter to the Editor). She said that the comments were very compelling as were Councilmember Leger's at the last meeting. She added that a year ago she would have felt very comfortable letting the citizens decide about Saguaro but right now she was not comfortable putting them in the position of having to decide with all of the other pressures that they were currently experiencing. She stated that since the last meeting there had been discussions with a lot of people and she had asked them what they thought about the bond for Saguaro and surprisingly a number of people say, "Well, what was so really bad about Saguaro? Could we just patch it for a while, put it off, what's the hurry?" Many believe that Fountain Hills Boulevard should be fixed first. She said that those types of responses gave her an idea of how they might vote when they went to the ballot box. She added that the careful planning and coordination that was going to have to take place between the Saguaro improvements, the possible downtown circulation improvements associated with the Swaback Visioning Process and the future impact on Saguaro with regards to sanitary service expansion for the Ellman development, it just seemed that this was a little premature and maybe one more years might be a good idea. She stated that it bothered her to spend a lot of money improving a street only to have to torn up for one or more purposes a couple years down the line. Councilmember Hansen advised that at this point she was very hesitant and probably would not vote to move forward with this right now.

Councilmember Brown said that staff and an outside firm had given them pretty clear direction about the life of Saguaro and what Saguaro could end up being. He added that if the Council said "no" to putting it on the ballot they would be taking the vote away from the people and he did not believe that it should be the Council's place to take that vote away. He said that he had talked to many people about this issue and they were clearly concerned about the deterioration of Saguaro Boulevard and if they did have an extremely wet monsoon season, there were sections of the road that would literally disappear. He added the opinion that the Ellman development might not happen for five or six years (due to the current economy) and he believed they needed to allow the public to provide the Council clear direction. He further stated the opinion that they should not tie the HURF money to the payment of the bond and instead should maintain that for the maintenance of the Town's existing roads. He added that as "shaky" as the State's finances were, they did not know for sure whether they were going to get a portion or any funds next year. He stressed the importance of putting this issue before the voters of the Town and said he would stand strong on the General Obligation Bonds.

Councilmember Contino said that he was also torn between doing it and not doing it and added that he traveled on Saguaro up to ten times a day and, because of his scooter, was probably closer to the road than anybody else. He stated that he had talked with many people about this and they had concerns about paying more taxes -- people were having financial difficulties at this time. He said that although he knew that they needed to get this done and that it was necessary, he was torn and he almost seconds what Councilmember Hansen said because the Swaback deal was going to take precedence but they did not know when that was going to happen either. He stated that no one knows what was going to happen and questioned why they would force themselves to tax themselves more. He expressed the opinion that they should sit back and take a look at that. He did not want to be the person who says "take it to the voters" and then the voters come back and say "you did it to me." He said that he was going to have to turn it down.

Councilmember Leger advised that his position had not changed since he articulated his point of view at the last Council meeting. He said that he respected everyone's arguments and believed that the project had merit. He added, however, that there were just so many moving parts and he was not going to be fatalistic and think that within the next two years Saguaro Boulevard was going to crumble. He stated the opinion that they would have a higher probability for success if they waited another two years. He said he takes exception with the notion that he might be preventing the public from making a decision and added that they were all elected officials and he had spoken to many people about this. He advised that everyone he had spoken with agreed that it would be great to do the project but believed that the timing was just not right. He has had people say that it was temporary but he did not consider a 15-year bond temporary. He reiterated that his position had not changed and although he agreed with doing the project at some point in time, right now was not the time. He commented on the fact that the largest increase in the proposed impact fees went to streets because they did have some significant needs. He expressed the opinion that that would take some of the pressure off in the future and they would either be able to afford to some work on Saguaro with other capital dollars or go to the electorate in a couple of years when he believes there would be a higher probability of success.

Mayor Schlum thanked all of the Councilmembers for their excellent input. The Mayor stated that times were different now than they were a year or two ago and everyone was being forced to make decisions based on the changing criteria. He agreed that Saguaro Road needed work but said that he too believed that it was a timing issue. He said that he believed that the people were going to expect to have rougher roads for a while because monies were not available at this point in time. He commented on the fact that there was a cost either way they went because maintenance would have to be done. He discussed the current economy and said that he did not want to put something on a ballot that had a good chance of failing because there was a cost associated with that. He added that he has also considered the fact that the School would have their over-ride on the ballot and said they needed to make sure that the school had a chance to obtain their funding and provide excellent education.

Councilmember Dickey said they talked about Swaback and downtown and to her that was almost a mixed message because they were looking to do this project and they were spending a lot of resources and time to create something that a lot of people appeared to be excited about. She said it was going to be beautiful and they actually put some money towards it and believed it was worthwhile. She reiterated that it was a mixed message in that they would allow a crumbling road leading to that. She stated that again, they would not be imposing anything on anybody, they would be placing it on the ballot for the citizens to decide. She expressed the opinion that they would spend a lot more money repairing the road than if they moved forward with the issue now. She said that she was encouraged by the fact that they were looking beyond the hard times they were having now in supporting Swaback and now it seemed that they were letting something decay, allowing something that was much more fundamental to be delayed perhaps out of fear of placing it on the ballot.

Mayor Schlum agreed that it did contrast somewhat with what they were doing with downtown but said that that was also a visioning exercise and was not something that was going to be implemented within the next year. He stated that it might even make more sense to delay Saguaro to be more in alignment with bringing the vision to a reality. He said that as far as the Editorial that had recently appeared in the paper, building something only to tear it up again was always going to be an issue, but if they did see some things coming forward that might impact a project, they wanted to make as much of an adjustment as possible. He advised that he supported waiting another year or two before bringing this before the public.

Councilmember Hansen commented that the correlation with Swaback was more of an opportunity. She said that by waiting just one year it was a very good opportunity to perhaps weigh in on something special to happen at that intersection and incorporate that into the overall Saguaro plan. She added that they could then take that definitive plan to the voters so that they could see the whole package. She stated that it was an opportunity to coordinate the two and make the plan better.

Mayor Schlum agreed that if they were able to wait there would be many more benefits, largely in the connection between the downtown and the park. He added that if they were able to delay Saguaro improvements at least in that area longer, it would probably be in everyone's best interest depending upon how

quickly their vision becomes a reality for the downtown. He stated that as it looked now, there was a great deal of focus on connecting the park with the Avenue and that would include significant road improvements and it would be a shame to have to redo that.

Councilmember Contino said he could sum it up by relating a comment from one of the parents that had kids in school that he had spoken with who stated, "We were getting another over-ride crammed down our throat again. We are never told where the money goes but we've got to pay it. What are we supposed to do? Pave the streets or go for the over-ride? We've got kids in school and we're facing a tough situation and the economics were not helping us." Councilmember Contino stated that they would have to sit back and take a look at that.

Councilmember Dickey **MOVED** approve Resolution 2009-24 ordering and calling a Special Election to be held in and for the Town of Fountain Hills, Arizona, on November 3, 2009, to submit to the qualified electors thereof the question of authorizing the issuance and sale of Four Million Five Hundred Thousand dollars (\$4,500,000) principal amount of General Obligation Bonds, project of 2009; and declaring an emergency and Councilmember Brown **SECONDED** the motion.

Ms. Bender advised that there were no citizens wishing to speak on this item.

A roll call vote was taken with the following results:

Councilmember Hansen	Nay
Councilmember Leger	Nay
Councilmember Dickey	Aye
Councilmember Contino	Nay
Vice Mayor Archambault	Absent
Mayor Schlum	Nay
Councilmember Brown	Aye

The motion **FAILED** by majority vote (2-4).

Mayor Schlum thanked everyone for their hard work on this issue.

AGENDA ITEM #10 - CONSIDERATION OF RESOLUTION 2009-29, AMENDING AND RESTATING THE COUNCIL RULES OF PROCEDURE RELATING TO THE SELECTION PROCESS FOR BOARD, COMMISSION, AND COMMITTEE MEMBERS.

Town Andrew McGuire addressed the Council relative to this agenda item. He said that for the Council goals established for this year, Goal #11 was to reduce the number of Executive Sessions and, by doing so, adopting a method for handling Council interviews that did not require them to conduct an Executive Session to first review the applications and then again to conduct the interviews for the selection of Board, Commission and Committee Members. He said at that the time staff had recommended that a Subcommittee be formed to handle both the interviews and the recommendations to the Mayor for his appointment and staff still supported this recommendation. He noted that in Fountain Hills the appointments were the results of the Mayor's recommendations approved by the Council. He said that after the Mayor would bring forward the Subcommittee's recommendations and then the Council would in a sense authorize his recommendations for appointments. He added that the process in Avondale, which was specifically part of the goal here, was to have three Councilmembers appointed to the Subcommittee (staffed by the City Clerk in Avondale) with some assistance from the departments but mostly run by the Clerk's office. He explained that this process was slanted more toward having the department heads having a "hands on " approach and being the ones to make sure that the interviews were established, that all the applications come forward for review and that all of the input, including the Town Clerk's be forwarded on in a timely manner to assist in the process when members were "timing out."

Mr. McGuire advised that the proposal was meant to assist in meeting the Council's goal a few months early. He indicated his willingness to respond to questions from the Council. Mayor Schlum thanked Mr. McGuire for bringing this forward.

In response to a question from the Mayor, Mr. McGuire stated that this would constitute a change to the Council's Rules and added that there were a few housekeeping items in there as well that he would be happy to address. Councilmember Dickey said that she had not looked at this close enough to notice whether the Subcommittee would be different from what the Commission was or whether it would be the same Subcommittee on a yearly basis.

Mr. McGuire replied that staff's recommendation did not specify the type of Subcommittee because they thought it was best left to the Council to determine how they would like to do that. He reported that Avondale uses a standing committee with three appointed every two years and some others had used Ad Hoc Subcommittees or it could be an annual appointment. He explained that this was just creating the mechanism so that it could be formed and the rest could be decided by the Council.

Mayor Schlum confirmed that he would come up with a recommendation on what he would like to do before the next set of interviews took place. Mayor Schlum asked who could serve on a standing committee and Mr. McGuire responded that any member of the Council could be on the committee and any member of staff could be asked to assist in the process. He added that it was really three members of the Council and they try to keep it to less than a quorum even though they would be posted as though they were regular meetings.

Councilmember Hansen asked whether the proposal had been written with enough flexibility to allow the Mayor to appoint a different Subcommittee for each commission that came up so then everyone was still participating but not just every single time. Mr. McGuire concurred and said it was very flexible and if the Council wanted to have different groups for different time periods/different expertise they could do that as well. He felt this would leave it open for an easier process. He pointed out that the Council also had the flexibility to return to use of the full Council.

Councilmember Hansen referred to Page 27, Section E, making copies of the applications and providing them to the members of the Subcommittee and said that since the whole Council would be voting on the appointment, she suggested that it be changed to also provide the entire Council with copies as well.

Mayor Schlum stated that the bottom line was to make sure that the Council was comfortable in affirming his motion and so Councilmember Hansen's recommendation was appropriate. Mr. McGuire indicated his willingness to make that change.

Councilmember Brown **MOVED** to approve Resolution 2009-29 as presented with one change on Page 27 where the Council will receive copies of all of the applications and Councilmember Hansen **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those present (6-0).

AGENDA ITEM #11 – CONSIDERATION OF RESOLUTION 2009-18, LEVYING UPON THE ASSESSED VALUATION OF THE PROPERTY WITHIN THE TOWN OF FOUNTAIN HILLS, SUBJECT TO TAXATION, A CERTAIN SUM UPON EACH ONE HUNDRED DOLLARS (\$100.00) OF VALUATION SUFFICIENT TO RAISE THE AMOUNTS ESTIMATED TO BE REQUIRED IN THE ANNUAL BUDGET, TO PROVIDE FUNDS FOR BOND REDEMPTIONS, FOR THE PURPOSE OF PAYING INTEREST UPON BONDED INDEBTEDNESS; ALL FOR THE FISCAL YEAR ENDING THE 30TH DAY OF JUNE, 2010.

Deputy Town Manager Julie Ghatti addressed the Council relative to this agenda item and explained that each year the Town has an obligation to repay bonds that were issued over the past several years (voter approved bonds) for the Library, Museum and some open space. She advised that each year that was repaid through a property tax on property owners. She said that this resolution authorized the Town to authorize Maricopa

County to add that tax onto property owners. She confirmed that this was not a new tax; it had been in existence for at least 15 years.

Ms. Bender advised that there were no citizens wishing to speak on this agenda item.

Councilmember Hansen **MOVED** TO approve Resolution 2009-18 as presented and Councilmember Dickey **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those present (6-0).

AGENDA ITEM #12 – COUNCIL DISCUSSION/DIRECTION TO THE TOWN MANAGER

Items listed below are related only to the propriety of (i) placing such items on a future agenda for action or (ii) directing staff to conduct further research and report back to the Council.

A. *NONE*

AGENDA ITEM #13 – SUMMARY OF COUNCIL REQUESTS AND REPORT ON RECENT ACTIVITIES BY THE TOWN MANAGER.

Deputy Town Manager Julie Ghetti stated that she would provide the Council with some clarification within the next two weeks and highlight those projects that caused the development fees to either increase or decrease significantly.

AGENDA ITEM #14 - ADJOURNMENT

Councilmember Hansen **MOVED** to adjourn the meeting and Councilmember Contino **SECONDED** the motion, which **CARRIED UNANIMOUSLY** by those present (6-0). The meeting adjourned at 8:10 p.m.

TOWN OF FOUNTAIN HILLS

By _____
Jay T. Schlum, Mayor

ATTEST AND
PREPARED BY:

Bevelyn J. Bender, Town Clerk

CERTIFICATION

I hereby certify that the foregoing minutes are a true and correct copy of the minutes of the Regular Session held by the Town Council of Fountain Hills on the 2nd day of July 2009. I further certify that the meeting was duly called and that a quorum was present.

DATED this 6th day of August 2009.

Bevelyn J. Bender, Town Clerk